

REMARKS

The Official Action mailed November 25, 2008, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statement filed on June 7, 2006.

SECOND REQUEST: The Applicant has not received acknowledgment of the Information Disclosure Statements filed on September 21, 2006 (received by OIPE September 25, 2006), and July 31, 2008 (received by OIPE August 4, 2008). The above-referenced Information Disclosure Statements appear in the Image File Wrapper. The Applicant respectfully requests that the Examiner provide initialed copies of the Form PTO-1449s evidencing consideration of the above-referenced Information Disclosure Statements.

Claims 1-3 were pending in the present application prior to the above amendment. Claim 1 has been amended to better recite the features of the present invention, and claims 2 and 3 have been canceled without prejudice or disclaimer. Accordingly, independent claim 1 is now pending in the present application. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 2 of the Official Action rejects claims 1-3 as anticipated by U.S. Patent No. 5,239,678 to Grube. The Applicant respectfully submits that an anticipation rejection cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent claim 1 has been amended to recite the following: when the control channel is used as a telephone communication channel, inserting information indicating a usage state of the telephone communication channel being used as the new control channel and a usage state of neighboring channels in an overlapped manner into information transmitted via the downlink communication of the control channel so as to notify a wireless unit currently making a telephone call using the control channel of these usage states, to perform a control channel usage state notifying processing. These features are supported in the present specification, for example, by page 8, line 19, to page 9, line 16.

The present invention, which adopts the control method having the above-referenced features, provides specific technical advantages. For example, the control channel usage state notifying processing is performed so as to notify a wireless unit (which waits for a control signal in a control channel without having an indication that the control channel has been set as a telephone communication channel) that a state occurs where there is not temporarily any control channel, thereby stopping an unnecessary scanning. Therefore, it is possible to reduce electric power consumption. Also, in such a case, since the shift of the control channel is notified to the wireless unit, it is possible to avoid an excess scanning; therefore, further reduction of electric power consumption can be expected.

For the reasons provided below, the Applicant respectfully submits that Grube does not teach the above-referenced features of the present invention, either explicitly or inherently.

Grube appears to disclose a control method of performing a telephone communication channel making processing step and a control channel shifting processing step. However, Grube does not disclose, either explicitly or inherently, a method which performs three kinds of processing steps: a telephone communication channel making processing step; a control channel shifting processing step; and a control channel usage state notifying processing step. The control channel usage state

notifying processing step is unique in that when the control channel is used as a telephone communication channel, information indicating a usage state of the telephone communication channel being used as the new control channel and a usage state of neighboring channels is inserted in an overlapped manner into information transmitted via the downlink communication of the control channel so as to notify a wireless unit currently making a telephone call using the control channel of these usage states, to perform a control channel of these usage states.

By contrast, the method of Grube only performs a telephone communication channel making processing step and a control channel shifting processing step. Grube's method does not perform a control channel usage state notifying processing step.

Therefore, the Applicant respectfully submits that Grube does not teach when the control channel is used as a telephone communication channel, inserting information indicating a usage state of the telephone communication channel being used as the new control channel and a usage state of neighboring channels in an overlapped manner into information transmitted via the downlink communication of the control channel so as to notify a wireless unit currently making a telephone call using the control channel of these usage states, to perform a control channel usage state notifying processing, either explicitly or inherently.

Since Grube does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained.

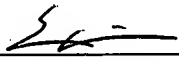
Further, it is noted that Japanese Patent No. 2724917, which corresponds to Grube, was cited in a corresponding Japanese application JP 2003-412233. An amendment similar to that provided in the present *Amendment* was also made in the corresponding JP '233 application, and the JP '233 application was allowed and subsequently issued as a patent. Therefore, the Applicant respectfully submits that the allowability of the corresponding JP '233 application is a further indication of the patentability of the present claim over Grube.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Paragraph 3 of the Official Action rejects claim 3 as obvious based on U.S. Patent No. 5,590,400 to Lopponen. Claim 3 has been canceled without prejudice or disclaimer; therefore, the above-referenced rejection is now moot.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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